IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2283 OF 2004

ALONG WITH

CRIMINAL WRIT PETITION NO.2284 OF 2004

M/s.A.Dineshchandra & Co. & Anr. ...Petitioners

Versus

State of Maharashtra & Anr. ...Respondents

.....

Mr.Jayesh Bhatt for Petitioners.

Mr.A.S.Gadkari, A.P.P. for Respondent No.1.

.....

CORAM: A.M.KHANWILKAR, J.

JANUARY 10, 2005.

P.C.

1. Heard Counsel for the parties.

2. The ground on which quashing of criminal action is sought, is that, as per the understanding between the parties, the Complainant ought to have obtained confirmation from the relatives, to whom, he claims to have repaid the loan amount on behalf of the accused; and that has not been done. This

obviously is a matter for trial. The complaint as filed clearly spells out the circumstance in which the cheques in question were issued by the Petitioners/accused. Non-compliance of some understanding is a matter, which will have to be established at the trial. In view of the legal presumption, at this stage, it is not possible to proceed on the basis that the cheques are not in respect of legally enforceable liability. In fact, that is not the argument of the Petitioners, but the only grievance seems to be that in absence of confirmation obtained from the relatives, the Petitioners cannot be exposed to the criminal liability. However, that is a matter for trial. The present action is on the basis of the cheques issued by the Petitioners, which have been dishonoured. Hence, not a case for quashing. Dismissed.

3. It is made clear that dismissal of these Petitions will not influence the Trial Court while finally disposing of the case. It will have to be done on the basis of evidence adduced by the rival parties.

A.M.KHANWILKAR, J.